

REMARKS

Reexamination and reconsideration of this application in view of the following remarks is respectfully requested. By this amendment, claims 1, 9 and 17 are amended; no claims are canceled; and no new claims are added. After this amendment, claims 1, 2, 3, 9, 10, 11, 12, 17, 18 and 24 remain pending in this application.

Claim Rejections - 35 USC §112

Reconsideration of the rejection of claims 9-12 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention in view of the amendment to claim 9 and for the following reasons. The first of the two terms in claim 9 that the Examiner stated was not clearly understood was changed, and that portion of amended claim 9 now recites as follows:

“... the application priority level application resource requirement indicates how important it is to execute the application in the regular performance mode, by the electronic device monitoring background/foreground mode information for the application;”

The second of the two terms in claim 9 that the Examiner stated was not clearly understood was changed, and that portion of amended claim 9 now recites as follows:

“if the application priority level application resource requirement allows the application to be executed in background mode, switching the execution of the application between one of background mode and foreground mode, based upon current application resources.”

Therefore, the Applicants believe that the rejection of claims 1-12 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicants regard as the invention has been overcome.

Claim Rejections - 35 USC §103

Reconsideration of the rejection of claims 9-12 under 35 U.S.C. §103(a) as being unpatentable over Rawson et al., (U.S. Pat. No. 5,682,204), hereinafter “Rawson”, is respectfully requested in view of the amendment to claim 9 and for the following reasons. Claim 9 was amended to more clearly recite the Applicants’ invention. No new matter was added. The change to claim 9 finds support in the specification, in particular, at page 16, lines 16-19.

Rawson fails to disclose all the steps of amended claim 9. In particular, Rawson fails to disclose the second step of amended claim 9, to wit:

“reading an application priority level application resource requirement associated with the application, in which the application priority level application resource requirement indicates how important it is to execute the application in the regular performance mode, by the electronic device monitoring background/foreground mode information for the application;”

Therefore, amended claim 9 should be allowed.

In rejected claim 9, which prior to the current amendment recited the word “criticality”, the Examiner stated that it is well known in the art to desire to schedule a critical application first. However, the invention concerns issues in addition to the issue of which application to schedule first. This is explained in the Applicants’ specification on page 16, lines 16-19, which states as follows, “In short, the application priority level indicates how important it is to run the application 350 and/or **how important it is to run the application 350 in regular (not reduced) performance mode.**” Emphasis added. Rawson fails to disclose an application priority level application resource requirement that indicates how important it is to execute the application in the regular performance mode.

Therefore, the Applicants believe that the rejection of claims 9-12 under 35 U.S.C. §103(a) as being unpatentable over Rawson has been overcome.

Reconsideration of the rejection of claims 1-3, 17-18 and 24 under 35 U.S.C. §103(a) as being unpatentable over Rawson in view of Kozuch et al., (U.S. Pat. No. 7, 225,441) hereinafter “Kozuch”, is respectfully requested in view of the amendments to claims 1 and 17, and for the following reasons. Claims 1 and 17 were amended to more clearly recite the Applicants’ invention. No new matter was added. The changes to claims 1 and 17 find support in the specification, in particular, at page 20, line 16 to page 21, line 5.

The combination cited by the Examiner fails to disclose all the steps of amended claim 1. In particular, the combination fails to disclose the following steps of amended claim 1:

“wherein if the at least one application resource requirement can be met by the electronic device when the application executes in foreground mode, executing the application in foreground mode,

wherein if the at least one application resource requirement can be met by the electronic device only when the application executes in background mode, executing the application in background mode, and

wherein if the at least one application resource requirement cannot be met by the electronic device, suspending the execution of the application . . . ”

Therefore, amended claim 1 should be allowed. Amended claim 17 recites similar language; therefore, amended claim 17 should also be allowed for similar reasons.

The Applicants agree with the Examiner’s statement, “Rawson does not teach indicating to a user that the application cannot be executed on the electronic device, indicating to the user which application resource requirement cannot be met by the electronic device, indicating to the user how the electronic device can be modified to meet the application resource requirement, prompting the user for agreement to modify the electronic device, in response to a command indicating agreement, modifying the electronic device to meet the application resource requirement associated with the application, and executing the application on the electronic device”.

However, the Applicants disagree with the Examiner that the virtual machines (VMs) of Kozuch are analogous to the user of the Applicants’ invention, and that the virtual machine monitor (VMM) of Kozuch is analogous to the electronic device of the Applicants’ invention.

Clearly, the Applicants' invention allows for user intervention and agreement by a person, and the electronic device of the invention responds to a decision made by the user by modifying the electronic device to meet the application resource requirement associated with the application (if such was indeed the decision indicated by the user). Kozuch fails to disclose any human intervention in its mechanism.

Therefore, the Applicants believe that the rejection of claims 1-3, 17-18 and 24 under 35 U.S.C. §103(a) as being unpatentable over Rawson in view of Kozuch has been overcome.

Conclusion

The foregoing is submitted as full and complete response to the Office Action dated January 29, 2008. It is believed that the application is now in condition for allowance. Allowance of claims 1, 2, 3, 9, 10, 11, 12, 17, 18 and 24 is respectfully requested.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless the Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

The Applicants acknowledge the continuing duty of candor and good faith in the disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment is limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

The present application, after entry of this Response, comprises ten (10) claims, including three (3) independent claims. The Applicants have previously paid for twenty-three (23) claims including three (3) independent claims. The Applicants, therefore, believe that a fee for claims amendment is currently not due.

The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account No.: **50-1556**.

PLEASE CALL the undersigned attorney at (561) 989-9811, should the Examiner believe a telephone interview would help advance prosecution of the application.

Respectfully submitted,

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